



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

September 11, 2013

**File Number:** 2013-7696

**Permit Type:** Use Permit

**Location:** 853 Gary Ave. (near Wolfe Rd.) (APN: 211-11-001)

**Applicant/Owner:** Nina & Tom Carine

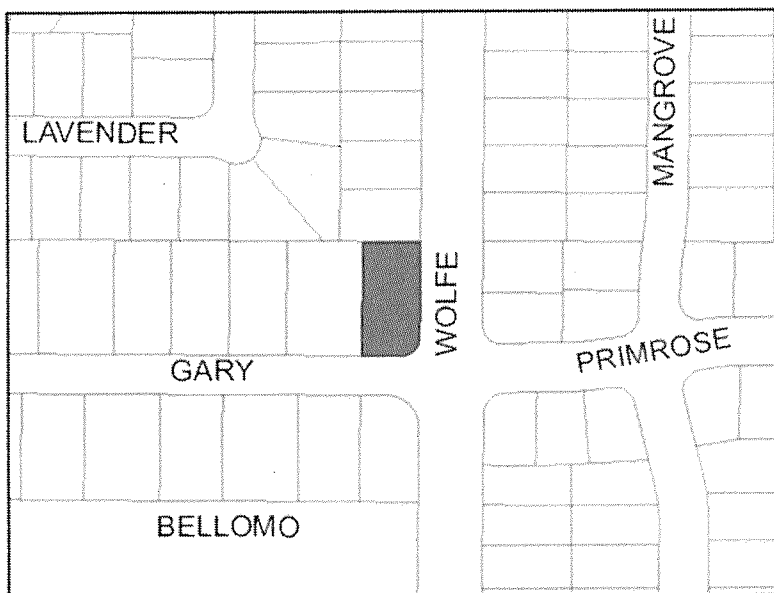
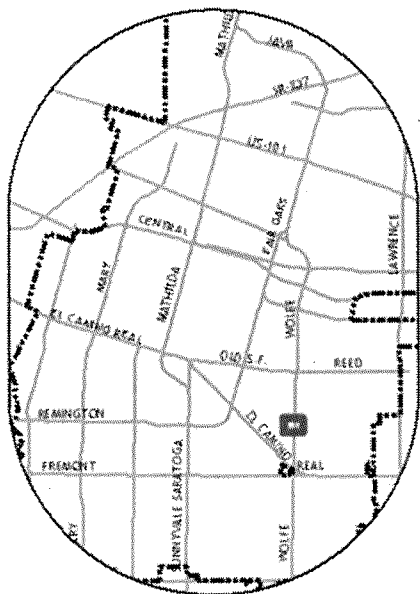
**Staff Contact:** Noren Caliva-Lepe, Associate Planner, (408) 730-7659

**Project Description:** To allow a commercial day care center in a single-family home.

**Reason for Permit:** A Use Permit is required for commercial day care centers within the R-1 (Low Density Residential) Zoning District.

**Issues:** Parking

**Recommendation:** Approve with Conditions



Z 500 Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Residential Low Density	Same
Zoning District:	R-1	Same
Total Sq. Ft. on Site:	Approx. 1,774	Same
Parking:	6	6

<b>Previous Planning Projects related to Subject Application.</b> The site has historically been used as a day care center since 1967 with a capacity of 35 children. The property sat vacant for several years and the original Use Permit expired in 2011. Subsequently, the property owner obtained a Use Permit (2011-7196) with a capacity of 28 children. The Use Permit approval was not exercised and again expired on May 11, 2013.	<b>Yes</b>
<b>Neighborhood Preservation Complaints.</b> There are no active code enforcement cases related to the site. There have been complaints regarding landscaping and general maintenance of the property in previous years.	<b>No</b>
<b>Deviations from Standard Zoning Requirements.</b> Sunnyvale Municipal Code (SMC) Chapter 19.46 allows parking adjustments for non-residential uses, which is not considered to be a deviation. The use requires a parking adjustment, as 7 spaces are required and 6 are provided.	<b>No</b>

**Use Description:** The proposed Use Permit is to allow a commercial child care center use within a single-family home that has historically been used as a child care center since 1967. The site has been vacant for approximately 5 years and previous Use Permits have expired. The applicant proposes no changes from the expired 2011 Use Permit.

In addition to permits required by the City, the use is subject to the State Child Care Licensing Division (CCLD) requirements. Per Condition of Approval GC-6, the applicant must comply with all licensing requirements by CCLD prior to commencement of use (see Attachment A).

**Hours of Operation:** The applicant notes that the business would be open weekdays (Monday through Friday) between 7:00 a.m. and 5:30 p.m.

**Expected Number of Students and Employees:** The proposed occupancy of the proposed commercial day care is 28 children and three employees at any given time.

**Site Layout and Floor Plan:** The property is located on a corner lot at the intersection of Gary Avenue and S. Wolfe Road. The home faces Gary Avenue with a fence that runs along a portion of the Wolfe Road frontage enclosing the rear yard.

A floor plan was provided which shows four open rooms, three bathrooms, a small office area and a loft (see Attachment B). The applicant is aware that several interior modifications to the building may be necessary in order to meet the latest Building and Fire Code requirements. With the exception of code required improvements, no further modifications are proposed by the applicant.

**Exterior Changes:** The existing property is generally in good condition. The applicant proposes to replace the existing dilapidated fence. Additional exterior changes are limited to parking lot striping and possible improvements required by the Building and Fire Code, such as an ADA ramp. As conditioned, all exterior upgrades will be completed prior to commencement of use.

The Gary Avenue frontage is dominated by parking lot paving with minimal landscaping. Staff recommends that areas not devoted to parking or circulation along the front yard area be landscaped. The applicant will be required to submit a separate staff-level permit for a landscaping plan (see Attachment A).

**Parking:** The proposed site plan indicates a total of 6 parking spaces to be provided in the parking lot facing Gary Avenue. These spaces will be striped to meet SMC 19.46 and ADA parking requirements. When the 2011 Use Permit was approved, 6 parking spaces were required (2 per 24 children and 1 per employee). The parking requirements have since been modified and 7 spaces are now required (0.25 per child).

SMC 19.46.130 allows parking adjustments for non-residential uses to allow for flexibility in parking requirements to address unusual or specific uses or locational characteristics. Staff is able to support the parking adjustment because of the following:

- (1) The following characteristics are present:
  - a. A drop-off and pick-up plan has been provided which shows staggered times due to part and full-time child care needs.
  - b. The site is within less than one-half mile of a walk from a major bus stop, which is defined as having 6 or more buses per hour, near the corner of Wolfe Road and El Camino Real.
  - c. The project is unusual because discretionary approval has already been granted in the past to allow for 6 parking spaces. It would be unreasonable to require 7 parking spaces with no modifications to the use or occupancy when 6 spaces would have existed under the previous permit.

- (2) Based on the characteristics present above, the proposed parking is adequate and will not spill over onto surrounding properties or streets. There were no reported on-street parking complaints with the previous operation, even when the occupancy was higher at 35 children.

**Public Contact:** A total of 15 notices were sent to surrounding property owners, residents, and tenants adjacent to the subject site in addition to standard noticing practice. Staff has not been contacted by any interested parties regarding this project.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

## **FINDINGS**

---

The following General Plan goals and policies relate to the proposed project:

### *Land Use and Transportation Chapter*

*Policy LT-4.1a – Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods*

*Policy LT.4.3 – Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.*

*Policy LT.4.13c – Provide opportunities for, and encourage neighborhood-serving commercial services in, each residential neighborhood.*

### **In order to approve the Use Permit the following findings must be made:**

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

Staff was able to make the findings as the proposed use meets the guidelines described above. The proposal is occupying a site formerly approved and utilized as a day care center. The proposed use could be considered less intensive to previous day care uses as the maximum capacity has been reduced from 35 to 28 children. The site is appropriately located at the edge of a residential neighborhood on a corner lot which enables access from a secondary street with less vehicular traffic than the busier arterial (Wolfe Road).

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

The project is expected to have minimal impacts on surrounding properties. Improvements to the site, proposed and conditioned, will enhance the visual appearance of the property to the surrounding area. Based on the specific use and location, parking impacts expected to be minimal.

**ALTERNATIVES:**

---

1. Approve the Use Permit with the recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

**RECOMMENDATION**

---

Alternative 1. Approve the Special Development Permit with the recommended Conditions in Attachment A.

Reviewed by:



Gerri Caruso  
Principal Planner

Prepared By: Noren Caliva-Lepe, Associate Planner

**Attachments:**

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Applicant's Project Description

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
SEPTEMBER 11, 2013**

**Planning Application 2012-7696**

853 Gary Avenue

Use Permit to allow to a commercial child care center within an R-1 (Low Density Residential) Zoning District. Project includes a Parking Adjustment.

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

<p><b>GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.</b></p>
---

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform to the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Use Permit shall expire if the use is discontinued for a period of one year or more. [SDR] [PLANNING]

GC-3. PERMIT EXPIRATION:

The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date and is approved by the Director of Community Development. [SDR] [PLANNING]

GC-4. OUTDOOR PLAY & SHADE STRUCTURES:

A separate staff-level permit is required for play and shade structures and must comply with siting requirements contained in SMC 19.40. [COA] [PLANNING]

GC-5. SIGNS:

All new signs require a separate permit and shall be in conformance with Title 19 of the Sunnyvale Municipal Code. [PLANNING] [COA]

GC-6. CAPACITY:

The maximum capacity for the day care center shall be limited to 28 children and 3 employees. Any proposed expansion of the use requires approval through a Zoning Administrator Hearing. [PLANNING] [COA]

GC-7. OBTAIN OTHER PERMITS AND LICENSES:

The following additional permits and licenses are required prior to commencement of the approved use:

- a) Obtain all required permits or licenses to operate as a child care center from the State Department of Social Services.
- b) Obtain required permits from the City of Sunnyvale Department of Public Safety, Fire Services.
- c) Obtain a City of Sunnyvale business license. [COA] [PLANNING]

**PS: THE FOLLOWING SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT, AND/OR GRADING PERMIT.**

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

A separate staff-level permit shall be submitted addressing the following revisions:

- a) A landscaping plan shall be submitted, which demonstrates that all areas not devoted to parking or circulation along the Gary Avenue property frontage is landscaped. The landscaping plan is subject to requirements contained in Sunnyvale Municipal Code Chapter 19.37.

- b) The on-site parking lot shall be restriped to comply with Sunnyvale Municipal Code Chapter 19.46 and the Americans with Disabilities Act (ADA) and shall have a minimum of 6 parking spaces.
- c) One bicycle rack shall be provided on-site near the building entry along Gary Avenue.
- d) The existing fence shall be replaced and shall comply with Sunnyvale Municipal Code Chapter 19.48.
- e) Landscaping, parking lot, and bicycle rack upgrades shall be installed prior to commencement of use. [COA] [PLANNING]

**BP: THE FOLLOWING SHALL BE ADDRESSED ON THE CONSTRUCTION PLANS SUBMITTED FOR ANY DEMOLITION PERMIT, BUILDING PERMIT, GRADING PERMIT, AND/OR ENCROACHMENT PERMIT AND SHALL BE MET PRIOR TO THE ISSUANCE OF SAID PERMIT(S).**

**BP-1. CONDITIONS OF APPROVAL:**

Final plans shall include all Conditions of Approval included as part of the approved application starting on sheet 2 of the plans. [COA] [PLANNING]

**BP-2. BUILDING SAFETY UPGRADES:**

Upgrades to the existing building may be required based on the proposed occupancy classification of the use. [COA] [BUILDING SAFETY]

**BP-3. FIRE PREVENTION UPGRADES:**

Upgrades to the existing building may be required based on the proposed occupancy classification of the use. [COA] [PUBLIC SAFETY]

**EP: THE FOLLOWING SHALL BE ADDRESSED AS PART OF AN ENCROACHMENT PERMIT APPLICATION.**

**EP-1. ENCROACHMENT PERMIT:**

Obtain Public Works Encroachment Permit for improvements within the public right-of-way if necessary, including but not limited to, driveway extension, water meter upgrade due to possible fire sprinkler requirements, etc. [COA] (ENGINEERING)



**AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

AT-1. HOURS OF OPERATION:

The use permitted as part of this application shall comply with the following hours of operation at all times:

- a) The hours of operation are limited to 7:00 a.m. to 5:30p.m daily. Modifications to the hours of operation may require a separate staff-level. [COA] [PLANNING]

AT-2. RECYCLING AND SOLID WASTE:

All exterior recycling and solid waste shall be confined to approved receptacles and enclosures. [COA] [PLANNING]

AT-3. LOUDSPEAKERS PROHIBITED:

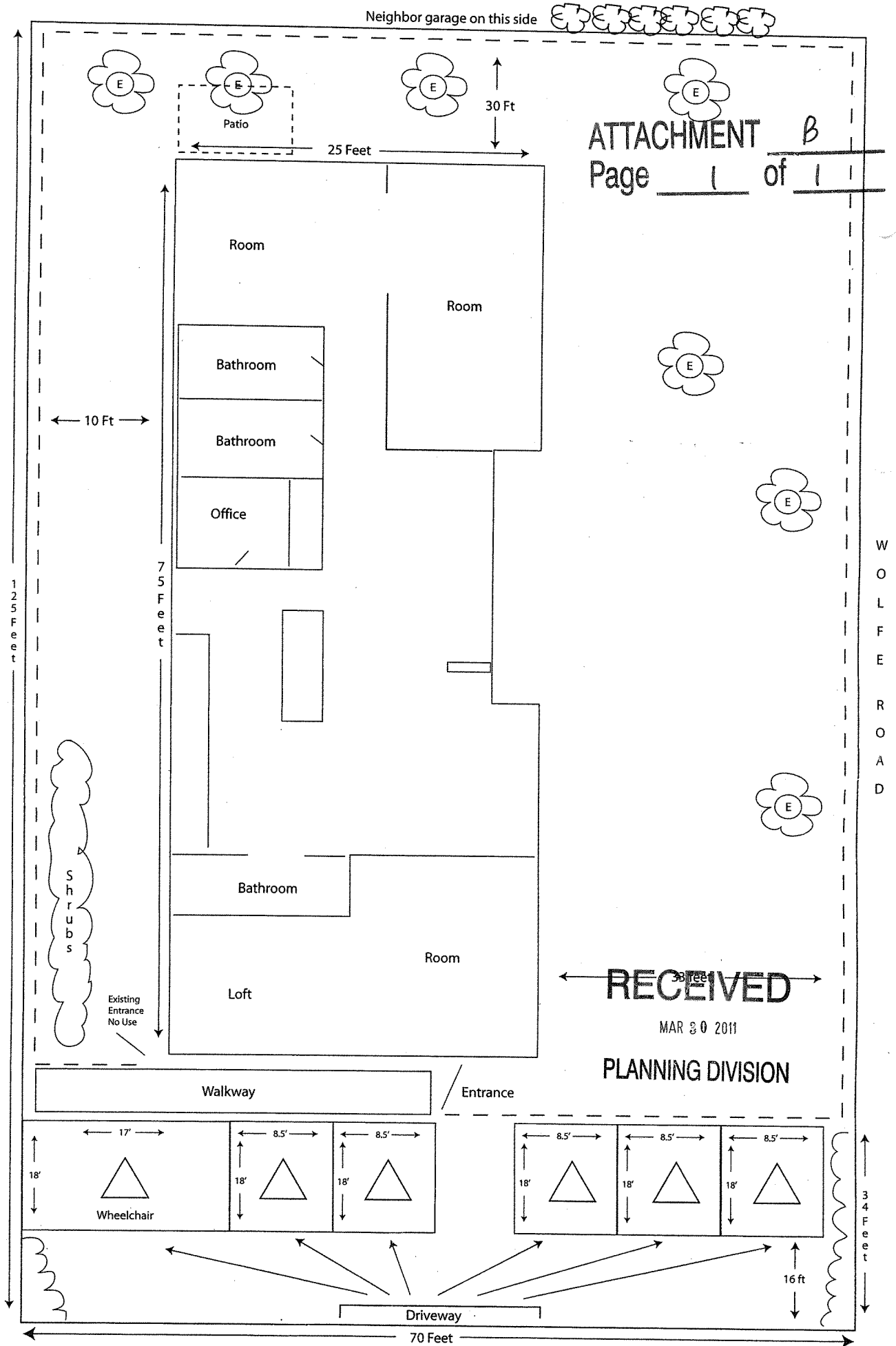
Out-of-door loudspeakers shall be prohibited at all times. [COA] [PLANNING]

AT-4. LANDSCAPE MAINTENANCE:

All landscaping shall be installed in accordance with the approved landscape plan and shall thereafter be maintained in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

AT-5. PARKING LOT MAINTENANCE:

The parking lot shall be maintained in accordance with the approved plans. [COA] [PLANNING]



-- -- -- -- = Perimeter Fence

# 853 Project Description Letter

ATTACHMENT C  
Page 1 of 1

## I. Provide Childcare

1. 12 years experience
2. Not enough play based pre-schools in area
3. We believe in childhood
4. Quality Care

## II. General Plans

1. Procure SBA Loan
2. Bring space up to fire, handicap, licensing, code
3. Add bike path, sandbox, play structure outside
4. Open for business by September 2011
5. Enter only in center to reduce impact to neighbor on side
6. Raise fence in back to cut view to back neighbor

## III. Ideal Location

1. Corner Lot
2. Noise suppressed by being close to traffic
3. Already setup as preschool
4. Adjacent neighbor gave positive response

## IV. Hours & Specifics

1. Mon - Fri 8AM to 5:30PM
2. Up to 28 Children
3. 2 to 3 employees including director

## V. Personal

1. Growing Family
2. 12 years business has been in our house

## VI. Parking

1. Modify existing lot to accommodate spaces up to code
2. parent drop off will be staggered naturally
3. 1 wheelchair and 5 additional spaces
4. widen driveway to allow drop-off pickup
5. convince city to remove red curb
6. Drop-off and pickup is staggered due to part and full time clients